

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

THERESA JONES,

Civil Action File No.

Plaintiff,

v.

VARIETY STORES, INC.

d/b/a MAXWAY #1536

AND VARIETY WHOLESALERS, INC.,

Defendants.

_____/

NOTICE OF REMOVAL

COME NOW VARIETY STORES, INC. d/b/a MAXWAY #1536 and VARIETY WHOLESALERS, INC., named Defendants in the above-captioned matter, by and through their counsel of record, within the time prescribed by law, and file this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendants VARIETY STORES, INC. d/b/a MAXWAY #1536 and VARIETY WHOLESALERS, INC., in the State Court of Putnam County, Georgia, which is within the Macon Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2021-ST-C-0043. Plaintiff's claims against Defendants include claims of negligence.

2.

Plaintiff filed the Complaint on or about October 7, 2021. Defendants received service of summons and a copy of the Complaint on October 8, 2021. Defendants file this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant Variety Stores, Inc. is a North Carolina corporation with its principal place of business in the State of North Carolina. Defendant Variety Stores, Inc. was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter.

4.

Defendant Variety Wholesalers, Inc. is a North Carolina corporation with its principal place of business in the State of North Carolina. Defendant Variety Wholesalers, Inc. was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter

5.

Theresa Jones is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims injuries to her left knee, including a left knee medial meniscus tear and left knee patellofemoral arthrosis requiring a left knee surgery, including a partial medial meniscectomy and debridement of the patella tendon and chondroplasty of the left patella (see operative report attached as Exhibit "A"), pain and suffering, past medical expenses of at least \$27,694.17, and future medical expenses. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Putnam County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Putnam County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants VARIETY STORES, INC. and VARIETY WHOLESALERS, INC. pray that the above-captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Macon Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia State Bar No. 447088
Attorneys for Defendants
VARIETY STORES, INC.
VARIETY WHOLESALERS, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 266-9171
(404) 365-4514
(404) 364-3138 (Fax)
hlessinger@mmatllaw.com

CERTIFICATE OF SERVICE

This is to certify that on October 21, 2021, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger

Howard M. Lessinger
Georgia State Bar No. 447088
Attorneys for Defendants
VARIETY STORES, INC.
VARIETY WHOLESALERS, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta GA 30326-3240
(404) 365-4514
hlessinger@mmatllaw.com